



LAPORTE COUNTY BOARD OF ZONING APPEALS

Government Complex, 5th Level
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Michael Polan
Building Commissioner

October 18th, 2022

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, **October 18th, 2022, at 6:00 p.m.** in the Assembly Room of the County Complex.

MEMBERS PRESENT: Dwayne Hogan April Daly
 Adam Koronka Glen Minich

PRESENT: Michael Polan, Recording Secretary, Attorney Doug Biege; Ashley
 Kazmucha, Administrative Coordinator

The Pledge of Allegiance.

APPROVAL OF MINUTES:

Dwayne Hogan asked for approval of the meeting minutes of September 20th, 2022.

Glen Minich made a motion to approve the meeting minutes of September 20th, 2022 as presented.

Adam Koronka seconded.

All Approved. Motion carries 4-0

Petitions:

4. Petition for Variance of Developmental Standards for Kevin M & Heather M Ellingson for a second accessory structure pole barn with water for personal use. This property is located at 1576 N. 400 W., LaPorte IN., Center Twp, zoned R1B. Parcel 46-06-29-200-021.000-042.

Dwayne Hogan stated Petition 4 this evening for Ellingson is not on tonight. If they are here for Petition 4 it will be postponed.

Adam Koronka made a motion to table the Variance of Developmental Standards for Kevin M & Heather M Ellingson for a second accessory structure pole barn with water for personal use. This property is located at 1576 N. 400 W., LaPorte IN., Center Twp, zoned R1B.

April Daly seconded.

All Approved. Motion carries 4-0.

1. Petition for Variance of Use for AERS PROPERTY MANAGEMENT II, LLC represented by counsel James Kaminski of Newby, Lewis, Kaminski, and Jones, LLP to store both within the existing facility and on the existing asphalt outside of such facility, roofing materials, supplies, and equipment, and other small activities. The property is located at 11515 W. 250 N., Michigan City, IN., Coolspring Twp., zoned A on 40.0179 acres. Parcel 46-05-19-100-010.000-046.

Attorney Biege stated notice is adequate.

Anthony Novak stated he is an attorney with Newby, Lewis, Kaminsky, and Jones in LaPorte at 916 Lincolnway. He is here tonight in place of Jim Kaminsky. Before he begins tonight, he has a four (4) page slide show and paper copies for the Board. He is representing AERS Property Management II, LLC. Here tonight via zoom is Mike Lukis, the owner. He might refer to Mike if there are any specific questions. In addition to this LLC, Mike and his wife are owners of two (2) other companies based in Frankfurt, Illinois; Mortenson Roofing Company and Tile Roofs, Inc. which are both relevant to this petition. Just a little bit of background, Mortenson Roofing is a specialty slate and tile roofing contractor that has been in business since 1937 doing work in the Greater Chicagoland area and Northwest Indiana as well. Mike's family has owned and operated the company for the last forty-five (45) years. For Tile Roof, he formed that thirty (30) years ago and they specialize in purchasing, stocking, and reselling slate and tile roof materials. They also do consulting work with insurance carriers on roof claims often dealing with discontinued tiles on the roof which requires them to have the repair material in stock to make roofs repairable. Finally, some background; Mike previously owned another company in Wisconsin that he recently sold. It's relevant because it used to be a property in which he would store a lot of materials, but since they no longer have that location, they need a new location to store a lot of materials. They are looking to move several truck loads of tile material from Wisconsin to Michigan City, though main operations will remain in Illinois. As shown on the slide, AERS has entered into a contract to purchase the property that is highlighted in blue; it is a forty (40) acre parcel southwest of the intersection of 94 and 421. He was here last month on a battery storage project which on the top to the screen is the substation that they talked about last month. It's right in that same area. The land is currently owned by Rowe Real Estate LLC who has consented to them filing this petition as shown in Exhibit 3. AERS is seeking a use variance on approximately eight (8) acres. They are actually seeking a variance on eight (8) acres on the southeastern corner of the property where there is a building and gravel surrounding it. They are going to look to use the building and the surrounding gravel to store materials and equipment on the related business Mortenson and Tile Roofs. The balance of the property will remain unchanged; it will stay farmland and woodland. Historically, this property was before this Board in 2016. At that time, Rowe was here asking for a developmental standards variance to construct that building and then for a use variance ultimately to operate an asphalt business out of that location. In 2016, Rowe constructed the building and completed it except for the plumbing. Rowe clarified that the use variance would just strictly be related to those eight (8) acres and it

looks like for that area, nothing has been changed since. He indicated at that time on the use variance he was seeking was to have an asphalt business that would operate roughly five to six (5 – 6) days a week with trucks coming to and from in the morning and in the evening when it goes to a job site. At that time in June of 2016, the BZA approved the request 5 – 0. For what they are looking for tonight, AERS will be finishing the plumbing, but otherwise the property will largely remain the same. In fact, one (1) of the main reasons they purchased the property was that there was a lot of land around that they'd like to keep exactly how it is. AERS would be the titled owner of the property and they would store materials and equipment owned by Mortenson Roofing and Tile Roofs. It would be stored both in the building itself and on the gravel portions of the property surrounding the building. The outdoor area where materials would be kept would be where the asphalt millings are in the front so it would be to the southwest portion of the building. The aerial shows that the outdoor storage area that they references is rather obstructed. It's kind of hard to see, but along the road there is actually a pretty large berm that has been built up that they can't really see into the property. That is the south side. The west side is a large grove of trees. The north side the trees wrap around and there is a lot of acreage of farm land. Then on the east side, that is a pretty thick row of trees there. Any storage of materials outside will be largely obstructed. Ongoing, when it comes to traffic, they might have an occasional truck that comes to and from Illinois to pick up materials, but not multiple trucks a day that are going to go to construction sites. Certainly, the amount of use will be substantially less than the use that has already been approved. The goal for this owner is to be a great neighbor and be as quiet as possible. Tonight, they are asking for a use variance to allow this business use of storing the business material and equipment. Again, Mike is available for any questions.

Adam Koronka stated he hears tile related materials and equipment which seems very broad and general. What are they anticipating?

Mike Lukis stated the roofing materials, they use slate material which is basically quarried out of the ground. They are flat pieces of rock basically. They are typically on pallets and stored until needed. The tile material that they have, they stock clay and concrete roof tiles which are stored on pallets. A lot of people call it hard roofing materials not asphalt shingles which bend. Slate tile is hard material. It would be the same thing as maybe a brick or masonry contractor with a heavier type of material. It takes space and it is heavy which requires a fork lift to move around and trucks to haul it. It's not anything unusual or hazardous. It's all stuff that comes out of the ground basically and probably less detrimental to any run off of water that might come off the material than other types of asphalt or other types of materials. Many churches will have a slate roof on it. They've actually done work on a church in LaPorte with a slate roof on it. Michigan City as well. They work on a lot of commercial buildings like that and higher end residences will have that kind of material on it. It looks like a basic roof, but somewhat heavier, stronger, sturdier, longer lasting type of roof material.

Adam Koronka asked about the equipment side of things. What do they plan on storing for equipment?

Mike Lukis stated most of the equipment would be on the inside as far as a couple of fork lifts and a bobcat. They might leave a trailer outside, but even those and most equipment they would try to put inside the building. It's possible they might have a trailer or something out there that

they might move material with and maybe even an occasional flat bed truck or something like that, that can haul a trailer, but they wouldn't see an excessive amount of equipment. It would be less than what he saw there when he looked at the property because there were several pieces of equipment there the last time he was out there along the back end of it. They wouldn't even have that anymore.

Remonstrators:

Darlene Glassman stated her address is 11823 W. 250 N., Michigan City, IN. She would like to know how many trucks will be coming in and out of there. It is a dirt road and if there are semis and the weight of them because they have trouble with that road before when the other trucks were coming in. It has to be graded constantly. They had trucks go off the road and there's mud in the ditch. It's not a good deal there. They want to try and keep it agriculture. They don't really care for the business out there.

Anthony Novak stated the question from Ms. Glassman was if he could approximate how many trucks a day the use would be.

Mike Lukis stated initially, they are talking about moving some material in so they would have maybe twenty to thirty (20 – 30) flatbed trucks, maybe even more as he doesn't have a count on the materials that they have to move out of that Wisconsin storage area, but initially there would be several flatbed trucks coming in. Once that material is put on the property, it is pretty much out of sight and pretty much stays there. A big part of their business that he has been doing more recently is insurance consulting and they have to keep certain types of materials in stock to say they are available. Somebody from an opposing law firm from the insurance company can actually come out and inspect it to see that they actually have it and that a roof can be repaired. That is something that they do that comes into play here. Initially, there would be quite a few semis of material coming in, but beyond that on an ongoing basis, they would go weeks at a time without seeing a truck. He might have a small truck pick up a slate, but that's somebody from Frankfort, Illinois location driving over to pick up some things. They do sell material, but they ship it out of Frankfort. It's possible they would ship something out of there as well, he wouldn't say that that wouldn't possibly happen, but they are looking at a very minimal amount of truck traffic after they move in some material that they want to store there. Occasionally, they could have a full flat bed semi come in or out of there, but the drivers are professional that they hire. They don't have their own trucks, but they hire professional drivers who are insured against any damage to their material or any damage they cause to anybody else's property or public highway for that matter. There isn't too much of a concern; they all see trucks every day and they carry insurance as they are required by law. He has driven down that gravel road many times and he doesn't see how a few trucks coming up and down that road would really cause any effect or nuisance to anybody there.

Roberta Kick stated her address is 11500 W. 250 N., Michigan City, IN. Her property is immediately south and east of this property. She speaks for all of her neighbors there when she says that they live there because they want to live there in the setting that they have. They watched that eight (8) acres of fairly productive farmland be destroyed by a bull dozer bull dozing the berms up and the millings put up for the storage area. At this point, it's not

objectionable to her that if anything would be stored outside that maybe a green screen of some kind would be advisable at least on the north end of the eight (8) acres. She would like to see it limited to that area as far as the variance goes and the rest of it stay agricultural land like it was originally intended.

Anthony Novak stated two points, exactly what she said is what they plan on doing which is the eight (8) acres would be the use and everything would remain agricultural number one (1). Number two (2), he wants to point out that the property immediately to the right of the screen and all the properties around there are all B3. It is proper zoning classification that this would be permitted by right, so it is not spot zoning; it's right in that area.

Adam Koronka made a motion to approve the Petition for Variance of Use for AERS PROPERTY MANAGEMENT II, LLC represented by counsel James Kaminski of Newby, Lewis, Kaminski, and Jones, LLP to store both within the existing facility and on the existing asphalt outside of such facility, roofing materials, supplies, and equipment, and other small activities. The use is permitted on the currently developed 8 acres while the balance of the property is to remain agriculture. The property is located at 11515 W. 250 N., Michigan City, IN., Coolspring Twp., zoned A on 40.0179 acres.

Glen Minich seconded.

All Approved. Motion carries 4-0.

2. Petition for Variance of Developmental Standards for Anthony M & Morgan D Dubbs for construction of a pole barn with a height of 24' instead of the maximum 18' allowed for storage of an RV. The property is located west of 4025 N. Miranda Dr., LaPorte, IN., Center Twp., zoned R1B. Parcel 46-06-09-351-032.000-042.

Attorney Biege stated notice is adequate.

Anthony Dubbs stated his address is 4025 N. Miranda Dr., LaPorte, IN.

Dwayne Hogan asked him what he wants to do.

Anthony Dubbs stated he has two (2) kids and he would like to have a recreational area for them. It wouldn't have running water, living quarters, or a bathroom. They will be purchasing a camper and he would like to have that stored in the winter months.

Dwayne Hogan asked what size pole barn is he looking at.

Anthony Dubbs stated it is a sixty four by forty (64' x 40').

Dwayne Hogan stated that's a pretty good size.

Anthony Dubbs stated both his kids play baseball so having room would be nice.

Dwayne Hogan stated a batting cage would be nice. Will there be bathrooms or water?

Anthony Dubbs stated no bathrooms and no water, just electric.

No remonstrators present.

Glen Minich made a motion to approve the Petition for Variance of Developmental Standards for Anthony M & Morgan D Dubbs for construction of a pole barn with a height of 24' instead of the maximum 18' allowed for storage of an RV. The property is located west of 4025 N. Miranda Dr., LaPorte, IN., Center Twp., zoned R1B.

April Daly seconded.

All Approved. Motion carries 4-0.

3. Petition for Variance of Developmental Standards for Stephanie K Skwiat for construction of an accessory structure with a side setback of 4' instead of the minimum 10' required. Current garage and shed to be removed. This property is located at 615 Waverly Rd., LaPorte, IN., Center Twp., zoned R1B. Parcel 46-06-34-101-003.000-042.

Attorney Biege stated notice is adequate.

Stephanie Skwiat stated her address is 615 Waverly Rd., LaPorte, IN.

Andy Skwiat stated he is here to help his mother.

Dwayne Hogan stated very good. What is it they want to do?

Stephani Skwiat stated she wants to put up a shed.

Dwayne Hogan asked what size shed does she want.

Andy Skwiat stated sixteen by thirty-six (16' x 36').

Dwayne Hogan asked if that is big enough. Will there be water in it? Electric?

Stephanie Skwiat stated electric.

Dwayne Hogan stated a setback of four feet (4') instead of ten feet (10').

Stephanie Skwiat stated yes.

No remonstrators present.

Glen Minich asked why they need to be four feet (4') from the property line instead of the standard ten feet (10'). Why do they need to be so close to the property line?

Andy Skwiat stated with the sixteen-foot (16') width they want to keep the lake view the best that they can have available. Currently on the north side there is some landscaping from the neighbors that give them a barrier and they want to shift it to the north so when they are in the house, they can use the lake to the best view possible.

Dwayne Hogan stated when he drove out there, he knew that was the reason.

Adam Kornka made a motion to approve the Petition for Variance of Developmental Standards for Stephanie K. Skwiat for construction of an accessory structure with a side setback of 4' instead of the minimum 10' required. Current garage and shed to be removed. This property is located at 615 Waverly Rd., LaPorte, IN., Center Twp., zoned R1B.

April Daly seconded.

All Approved. Motion carries 4-0.

5. Petition for Variance of Use for James Henson to operate a metal fabrication shop out of the garage. This property is located at 1402 S. State Road 39, LaPorte, IN., Scipio Twp. zoned R1B. Parcel 46-10-10-277-028.000-060.

Ashley Kazmucha stated she does not see the Petitioner present.

Dwayne Hogan stated he will be moved to the end in case.

6. Petition for Variance of Developmental Standards for William T Bielby and Cathleen Lambert Bielby (sellers) and Daniel & Heather McDevitt (buyers) to convert a garage into a guest house for personal use. The property is located at 6065 E. 1000 N., New Carlisle, IN., Hudson Twp., zoned A on 10.35 acres. Parcel 46-04-07-300-002.000-050.

Attorney Biege stated notice is adequate.

Dan and Heather McDevitt stated their address is 6065 E. 1000 N., New Carlisle, IN.

Dwayne Hogan asked them what they want to do.

Dan McDevitt stated they have an existing garage on the property. They just closed on the property today. The house itself only has three (3) bedrooms and they have five (5) kids. They were hoping to take the existing garage and make it into usable space for their family.

Dwayne Hogan stated it is a very beautiful property when he drove out there.

Dan McDevitt stated thank you very much. They are really excited about it.

Dwayne Hogan stated he could see why.

No remonstrators present.

Adam Koronka stated he sees two (2) layouts provided. He sees the one (1) for the existing garage and then he sees the sketch that shows what the plan is. If he were to orient this in any way, he sees there is a porch adjacent to a twenty-one by fifteen (21' x 15') room. He is assuming that is the pre-existing office they have listed on the sketch.

Dan McDevitt stated yes.

Adam Koronka made a motion to approve the Petition for Developmental Standards for William T Bielby and Cathleen Lambert Bielby (sellers) and Daniel & Heather McDevitt (buyers) to convert a garage into a guest house for personal use. The property is located at 6065 E. 1000 N., New Carlisle, IN., Hudson Twp., zoned A on 10.35 acres. Parcel 46-04-07-300-002.000-050.

April Daly seconded.

All Approved. Motion carries 4-0.

7. Petition for Variance of Developmental Standards for Michael A & Amy Barger for construction of a second accessory pole barn for personal use and to the side of the home instead of the rear. The property is located at 6865 N. 400 W., Michigan City, IN., Springfield Twp, zoned A on 2 acres. Parcel 46-02-33-102-007.000-062.

Attorney Biege stated notice is adequate.

Michael Barger stated his address is 6865 N. 400 W., Michigan City, IN.

Dwayne Hogan asked what he wants to do.

Michael Barger stated he wants to build a thirty-two by forty-eight (32' x 48') pole barn.

Dwayne Hogan stated should be a good size. Water and electric or just electric?

Michael Barger stated probably down the road. He doesn't plan on doing it right away, but if that's possible.

Dwayne Hogan stated if he is going to do it, he has to ask for it now.

Michael Barger stated then yes.

Dwayne Hogan stated thirty-two by forty-eight (32' x 48'), water and electric, personal use on two (2) acres.

Adam Koronka stated there is a little concern about the ground water drainage since the fact that it is so much lower than the house.

Michael Barger stated he is going to have sand brought in and bring that side up for the building.

Adam Koronka asked if it would be level with the driveway.

Michael Barger stated not quite level because that's about four or five feet (4' – 5'). It's not going to be that high. He wants to bring it up a little bit, but not level with the driveway.

Dwayne Hogan asked if he will slope it up.

Michael Barger stated yes. He will take and flatten it out and then slope it down.

Adam Koronka asked if there is going to be an accessory driveway or is it expected to come out to the main driveway to the home.

Michael Barger stated to the back side to where the other building, there is a gravel drive right there and he plans on connecting to that. Maybe in the future getting closer to the property line with a different driveway to that side, but that would be in the future and not right now. The main driveway will be it right now.

No remonstrators present.

Glen Minich made a motion to approve the Petition for Variance of Developmental Standards for Michael A & Amy Barger for construction of a second accessory pole barn with water and electric for personal use and to the side of the home instead of the rear. Not to be used for occupancy. The property is located at 6865 N. 400 W., Michigan City, IN., Springfield Twp, zoned A on 2 acres.

Adam Koronka seconded.

All Approved. Motion carries 4-0.

5. Petition for Variance of Use for James Henson to operate a metal fabrication shop out of the garage. This property is located at 1402 S. State Road 39, LaPorte, IN., Scipio Twp. zoned R1B. Parcel 46-10-10-277-028.000-060.

Attorney Biege stated notice is adequate.

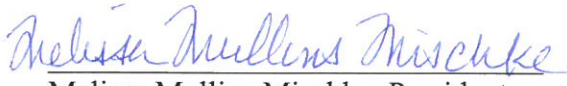
Adam Koronka made a motion to postpone to next month the Petition for Variance of Use for James Henson to operate a metal fabrication shop out of the garage. This property is located at 1402 S. State Road 39, LaPorte, IN., Scipio Twp. zoned R1B.

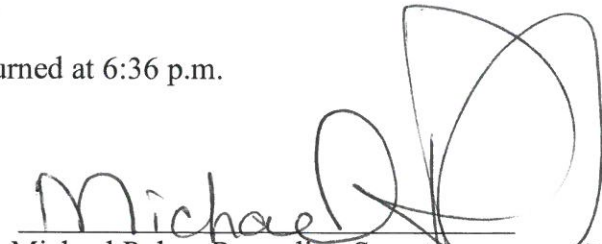
Glen Minich seconded.

All Approved. Motion carries 4-0.

Dwayne Hogan asked for any other business.

There being no further business, meeting adjourned at 6:36 p.m.


Melissa Mullins Mischke, President


Michael Polan, Recording Secretary